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Attorney Docket: 28020U

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

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| YACHIA, <i>et al.</i> | Conf. No.: 1745 |
| Appl. No.: 10/533,639 | Art Unit: 3767 |
| Filed: November 15, 2005 | Examiner: Laura C. Schell |
| Title: IMPLANTABLE MEDICAL DEVICE FOR CONTROLLED RELEASE OF SUBSTANCE | |

INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Commissioner:

Pursuant to 37 CFR §§ 1.97 and 1.98, the documents listed on the enclosed Form PTO/SB/08 are submitted for consideration by the Examiner in the examination of the above-identified patent application.

This submission is not a representation that a search has been made, or that better art does or does not exist. In addition, this submission does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Examiner applies any of the documents as "prior art" against any claim in this application and Applicant(s) determine that the cited documents do not constitute "prior art" under United States law, Applicant(s) expressly reserve the right to present, to the United States Patent and Trademark Office, the relevant facts and law regarding the appropriate status of such documents. Likewise, Applicant(s) expressly reserve the right to establish an earlier date of invention of any or all of the subject matter disclosed in this application, or any application claiming priority from this application, in order to remove any reference submitted herewith as prior art.

Applicant(s) further reserve the right to take appropriate action to establish the patentability of the disclosed subject matter over the listed documents, should one or more of the documents be applied against the claims of the present application. This submission of documents is not to be taken as a concession that any document represents art that is relevant or analogous to the subject matter claimed at any time throughout the prosecution of this or any application claiming priority from this application. Accordingly, the right to argue that any document is not properly within the scope of prior art relevant to an examination of the present claims is also expressly reserved.

- The Information Disclosure Statement (hereinafter "IDS") is being filed as follows:
- a. ☐ The IDS is being filed within three months of the filing date of a national application, or within three months of the date of entry into the national stage as set forth in 37 C.F.R. 1.491 in an international application, or before the mailing date of a first Official Action on the merits, whichever event occurs last.
- b. ☐ The IDS is being filed after a first action on the merits but before the mailing date of a final Official Action under 37 C.F.R. 1.113, or a Notice of Allowance under 37 C.F.R. 1.311.
The IDS is accompanied by:
- i. ☐ a certification in part (e) below as specified in 37 C.F.R. 1.97(e),
 or
 ii. ☐ a check in the amount required by 37 C.F.R. 1.17(p).
- c. ☐ The IDS is being filed after the mailing date of a final Official Action under 37 CFR 1.113, or a Notice of Allowance under 37 CFR 1.311, but before payment of the issue fee.
The IDS is accompanied by:
- i. ☐ Certification report(e) below;
 and
 ii. ☐ A check in the amount as required by 1.17(p).
- d. ☒ The IDS is being filed pursuant to 37 C.F.R. 1.97(i), for placement in the file.
- e. Certification:
- ☐ I hereby certify that each item of information contained in the Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application or in a counterpart United States patent application not more than three months prior to the filing of this statement,
- or
- ☐ I hereby certify that no item of information cited in the Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, or, to my knowledge after making reasonable inquiry, was known to any individual designated in 37 C.F.R. 1.56(c) more than three months prior to the filing of this Information Disclosure Statement.
- or
- ☐ Appropriate certification is attached.
- f. ☒ If no check is enclosed and a fee is due in connection with this communication or if the check enclosed is insufficient, the Commissioner is authorized to charge any fee or additional fee due in connection with this communication to Deposit Account No. 14-0112.

- g. ☒ Copies of the documents are attached herewith with a completed PTO/SB/08
or
☐ Copies of the documents are not attached, with a completed Form PTO/SB/08 as allowed under CFR 1.98(d)(1)(2). The earlier application is identified as:
and / or
☐ Copies of US Patents/Publications are not attached, with a completed Form PTO/SB/08 as allowed in Official Gazette Aug. 5, 2003/ Vol. 1273, no. 1.
- h. ☐ A copy of the International Search Report is enclosed herewith.
- i. ☐ A copy of the European Search Report or Supplementary European Search Report is enclosed herewith.

The Examiner is respectfully requested to cite the documents listed on the attached Form PTO/SB/08 in the next Official Action. In so doing, the Examiner is respectfully requested to initial in the space adjacent to the listing of each document on the Form PTO/SB/08, and return a copy of the initialed Form PTO/SB/08 with the next communication to Applicant(s), to confirm that these documents have been considered by the Examiner and made of record in this application.

Should any additional fees be owed in connection with this Information Disclosure Statement, please charge any such fee deficiency to Deposit Account No. 14-0112. Likewise, please credit any overpayment to Deposit Account No. 14-0112.

The Examiner is invited to contact the undersigned attorney at the below-listed telephone number, with regard to any questions that may arise.

Respectfully submitted,

THE NATH LAW GROUP[®]

Date: January 19, 2010



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